

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In re:

Demitric A. & LaNita J. Martin

Case No. 09-81446

Chapter 13

S.S. Nos.: xxx-xx-3897 & xxx-xx-5632

Mailing Address: 614 Magna Drive, Durham, NC 27703

Debtors.

**ORDER ALLOWING USE OF CASH COLLATERAL
AND SUBSTITUTION OF COLLATERAL**

THIS MOTION to use cash collateral and to allow substitution of collateral, dated April 12, 2010, having been filed by the Debtors and having come before this Court for consideration,

THE COURT FINDS:

1. That the Debtors' Motion was properly made, in accordance with Sections 105(a), 1303, and 363(b) of the Bankruptcy Code, and was duly noticed of and served on the Trustee and all other parties of interest in this case, and that no objections to the motion have been filed; and that there is just cause for allowing the use of the cash collateral arising from insurance proceeds and, in turn, the substitution of collateral.
2. That the Debtors' Motion hereby is granted, whereby the Debtors are authorized to convey their interest in the 2004 Nissan Xterra to NATIONWIDE. The Debtors are further authorized to use the full amount of the insurance proceeds, in the amount of \$10,591.63, payable by reason of the property damage sustained to said vehicle, to purchase a replacement vehicle. DURHAM AUTO MART shall be deemed to have a first lien upon said replacement vehicle for purposes of securing its obligation with the Debtors and for purposes of this Chapter 13 plan. After the Debtors purchase a replacement vehicle, the Debtors are ordered to turn the title to the replacement vehicle over to the Chapter 13 Trustee as soon as it is received by the Debtors to then be forwarded to DURHAM AUTO MART.
3. That to facilitate release of the insurance proceeds to the Debtors, and, in turn, the purchase and substitution of a replacement vehicle, DURHAM AUTO MART shall immediately turn over to NATIONWIDE the title to said vehicle, making whatever notations thereon, or providing such other documentation as is necessary, to provide said insurance company with a title free of said creditor's lien or that in the alternative that the North Carolina Division of Motor Vehicles shall, upon presentation of this Order by NATIONWIDE, issue a title to said vehicle to NATIONWIDE free and clear of the lien held by DURHAM AUTO MART and/or its assignees or successors in interest.

4. That the Debtors shall pay additional attorney fees to Debtors counsel in the amount of \$450.00, with said amount being paid through the Chapter 13 plan, regardless of whether this substitution of collateral is hereafter consummated.
5. That the Debtors shall, immediately after the purchase of a replacement vehicle, pay over to the Chapter 13 Trustee any portion of the said insurance proceeds not used in the purchase of the replacement vehicle. The Trustee shall then pay over said proceeds to DURHAM AUTO MART, adjusting the amount owed to said creditor under the Chapter 13 plan accordingly.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In re:

Demitric A. & LaNita J. Martin

Case No. 09-81446

Chapter 13

S.S. Nos.: xxx-xx-3897 & xxx-xx-5632

Mailing Address: 614 Magna Drive, Durham, NC 27703

Debtors.

**DEPUTY CLERK'S SERVICE LIST FOR
ORDER ALLOWING USE OF CASH COLLATERAL AND SUBSTITUTION OF COLLATERAL**

Richard M. Hutson, II CHAPTER 13 TRUSTEE Post Office Box 3613 Durham, NC 27702	John T. Orcutt Attorney for Debtor(s) 6616-203 Six Forks Rd. Raleigh, N.C. 27615
Bankruptcy Administrator Post Office Box 1828 Greensboro, NC 27402	Demitric A. & LaNita J. Martin 614 Magna Drive, Durham, NC 27703
Nationwide Insurance Attn: Jim Sullivan One Nationwide Plaza Columbus OH 43215	DURHAM AUTO MART Attn: Managing Agent 3700 Hillsborough Road Durham, NC 27705-